

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

BUILDING MATERIALS HOLDING  
CORPORATION, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 09-12074 (KJC)

Jointly Administered

**Ref. Docket Nos. 105 and 244**

**Objection Deadline: December 29, 2009 at 4:00 p.m. (ET)**

**SIXTEENTH NOTICE OF FILING OF  
DECLARATIONS OF DISINTERESTEDNESS OF  
CERTAIN ORDINARY COURSE PROFESSIONALS**

**PLEASE TAKE NOTICE** that on June 26, 2009, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed their Motion for an Order Authorizing the Employment and Payment of Professionals Used in the Ordinary Course of Business [Docket No. 105] (as supplemented by Docket Nos. 371, 559 and 608, the “OCP Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Court”).

**PLEASE TAKE FURTHER NOTICE** that on July 16, 2009, the Court entered the Order Authorizing the Debtors’ Retention and Compensation of Certain Professionals Utilized in the Ordinary Course of Business [Docket No. 244] (the “OCP Order”).<sup>2</sup> The OCP Order provides that each Ordinary Course Professional shall file with the Court a Declaration of Disinterestedness prior to the receipt of payment for postpetition services rendered to the Debtors.

**PLEASE TAKE FURTHER NOTICE** that pursuant to the OCP Order, the Debtors hereby file the Declaration of Disinterestedness (the “Declaration”) for the Ordinary Course Professional listed on Exhibit 1 hereto. The Declaration for such Ordinary Course Professional can be found on Exhibit 2 hereto.

**PLEASE TAKE FURTHER NOTICE** that this Notice has been served on: (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel to the Official Committee of Unsecured Creditors appointed in these chapter 11 cases; and (iii) counsel to Wells Fargo Bank, as agent under the Prepetition Credit Facility and the DIP Facility (as defined in the chapter 11 plan filed by the Debtors in these cases) (together with the Debtors, the “Notice Parties”).

<sup>1</sup> The Debtors, along with the last four digits of each Debtor’s tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

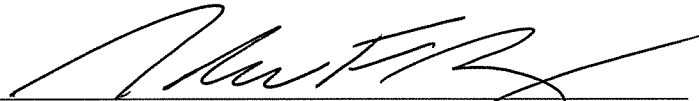
<sup>2</sup> All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the OCP Motion.

**PLEASE TAKE FURTHER NOTICE** that pursuant to the OCP Order, the Notice Parties shall have until **December 29, 2009 at 4:00 p.m. (ET)** (the "**Objection Deadline**") to object (an "**Objection**") to the retention of the Ordinary Course Professional listed on the attached **Exhibit 1**. Any Objection shall be in writing and filed with the Court and served upon the Notice Parties and the Ordinary Course Professional on or before the Objection Deadline.

**PLEASE TAKE FURTHER NOTICE THAT IF A TIMELY OBJECTION IS NOT RECEIVED WITH RESPECT TO THE RETENTION OF THE ORDINARY PROFESSIONAL, THE RETENTION OF SUCH PROFESSIONAL SHALL BE DEEMED APPROVED BY THE COURT WITHOUT A HEARING OR FURTHER ORDER, AND THE DEBTORS SHALL BE AUTHORIZED TO RETAIN AND PAY SUCH PROFESSIONAL IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE OCP ORDER.**

Dated: Wilmington, Delaware  
December 9, 2009

YOUNG CONAWAY STARGATT & TAYLOR, LLP



Sean M. Beach (No. 4070)  
Donald J. Bowman, Jr. (No. 4383)  
Robert F. Poppiti, Jr. (No. 5052)  
The Brandywine Building  
1000 West Street, 17th Floor  
P.O. Box 391  
Wilmington, Delaware 19899-0391  
Telephone: (302) 571-6600  
Facsimile: (302) 571-1253

----and----

GIBSON, DUNN & CRUTCHER LLP  
Michael A. Rosenthal (admitted *pro hac vice*)  
Matthew K. Kelsey (admitted *pro hac vice*)  
Sae M. Muzumdar (admitted *pro hac vice*)  
200 Park Avenue, 47th Floor  
New York, New York 10166-0193  
Telephone: (212) 351-4000  
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Aaron G. York (admitted *pro hac vice*)  
Jeremy L. Graves (admitted *pro hac vice*)  
2100 McKinney Avenue, Suite 1100  
Dallas, Texas 75201-6911  
Telephone: (214) 698-3100  
Facsimile: (214) 571-2900

ATTORNEYS FOR THE DEBTORS  
AND DEBTORS-IN-POSSESSION

**EXHIBIT 1**

Ordinary Course Professional

**Ordinary Course Professional**

Law Offices of Frederick W. Smith, Jr.

**EXHIBIT 2**

Declaration of Disinterestedness

1 UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

2 IN RE:

Chapter 11

3 BUILDING MATERIALS HOLDING  
4 CORPORATION, et al.,<sup>1</sup>

Case No. 09-12074 (KJC)

Jointly Administered

5 Debtors.  
6 \_\_\_\_\_/

7  
8 **VERIFIED STATEMENT OF CONNECTIONS**

9 I, Andrea Sessions, declare under penalty of perjury:

10 1. I am an associate attorney of the Law Offices of Frederick W. Smith, Jr., located at 1455 East  
11 G Street, Suite B, Oakdale, CA 95361 (the "Firm").

12 2. Building Materials Holding Corporation and its affiliates, as debtors and debtors in  
13 possession (collectively, the "Debtors") have requested that the Firm provide collection attorney services  
14 to the Debtors, and the Firm has consented to provide such services.

15 3. If the Firm is a law firm, I state the Firm did not represent the Debtors prior to their  
16 bankruptcy filings.

17 4. The Firm may have performed services in the past, may currently perform services and may  
18 perform services in the future, in matters unrelated to these chapter 11 cases, for persons that are parties in  
19 interest in these chapter 11 cases. The Firm does not perform services for any such person in connection with  
20 these chapter 11 cases, or have any relationship with any such person, their attorneys or accountants that  
21 would be adverse to the Debtors or their estates. Furthermore, if the Firm is either (i) not a law firm or (ii)  
22 a law firm that did not represent the Debtors prior to their bankruptcy filings, the Firm is a "disinterested  
23 person" under 11 U.S.C. § 101(14), such that the Firm:  
24  
25  
26  
27 \_\_\_\_\_

28 <sup>1</sup> The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

- 1 (a) is not a creditor, an equity security holder, or an insider of any of the Debtors;
- 2 (b) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of any of the Debtors; and
- 3 (c) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason.

4  
5 5. As part of its customary practice, the Firm is retained in cases, proceedings, and transactions  
6 involving many different parties, some of whom may represent or be employed by the Debtors, claimants,  
7 and parties-in-interest in the Debtors' chapter 11 cases.

8  
9 6. Neither I nor any principal, director or officer of, or professional employed by, the Firm has  
10 agreed to share or will share any portion of the compensation to be received from the Debtors with any other  
11 person other than the principal and regular employees of the Firm.

12 7. In the ordinary course of its business, the Firm maintains a database for purposes of  
13 performing "conflicts checks." The Firm's database contains information regarding the Firm's present and  
14 past representations. Pursuant to Federal Rule of Bankruptcy Procedure 2014(a), I obtained a list of the  
15 entities identified in Rule 2014(a) from counsel to the Debtors for purposes of searching the aforementioned  
16 database and determining the connection(s) which the Firm has with such entities. The Firm's search of the  
17 database identified no connections.

18  
19 8. Neither I nor any principal, director or officer of or professional employed by, the Firm,  
20 insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors or their estates  
21 with respect to the matter(s) upon which this Firm is to be employed. Furthermore, if the Firm is either (i)  
22 not a law firm or (ii) a law firm that did not represent the Debtors prior to their bankruptcy filings, I state  
23 that neither I nor any principal, director or officer of or professional employed by, the Firm, insofar as I have  
24 been able to ascertain, holds or represents any interest adverse to the Debtors.

25  
26 9. The Debtors owe the Firm \$0.00 for pre-petition services, the payment of which is subject  
27 to limitations contained in the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532. If the Firm is either  
28 (i) not a law firm (ii) a law firm that did not represent the Debtors prior to their bankruptcy filings, my

1 signature below acknowledges that the Firm understands that any and all pre-petition claims that it has  
2 against the Debtors will be deemed waived if the Firm's employment is authorized.

3 10. As of June 16, 2009, which was the date on which the Debtors commenced these chapter 11  
4 cases, the Firm was not party to an engagement or services agreement with the Debtors. As of September  
5 16, 2009, the Firm has been party to an engagement or services agreement with Debtors. A copy of such  
6 agreement is attached as Exhibit A to this Declaration. Declarant was employed by the law firm of Curtis  
7 & Arata and handled collection matters for Debtors with that law firm. Attached as Exhibit B is a copy of  
8 Curtis & Arata's Verified Statement of Connections. As of September 16, 2009, Declarant left Curtis &  
9 Arata's employ to join the Law Offices of Frederick W. Smith, Jr. Declarant has continued to handle the  
10 collection matters previously handled by Curtis & Arata.  
11

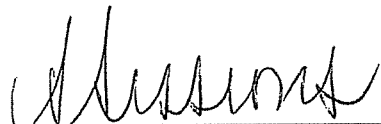
12 11. As of September 16, 2009, the Firm was not a party to an agreement for indemnification with  
13 certain of the Debtors.  
14

15 12. If the Firm is not a law firm, the following is a list of all payments which the Firm received  
16 from the Debtors during the year prior to the Debtors' bankruptcy filings: N/A  
17

18 13. The Firm is conducting further inquiries regarding its retention by any creditors of the  
19 Debtors, and upon conclusion of that inquiry, or at any time during the period of its employment, if the Firm  
20 should discover any facts bearing on the matters described herein, the Firm will supplement the information  
21 contained in this Declaration.

22 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

23 Date: December 9, 2009  
24

25   
26 \_\_\_\_\_  
27 ANDREA SESSIONS, ESQ.  
28



**EXHIBIT A**

## ATTORNEY-CLIENT FEE AGREEMENT

The Law Offices of Frederick W. Smith, Jr. (hereinafter "we" or "Smith"), will provide legal services to BMC WEST CORPORATION (hereinafter "you") according to the terms and subject to the conditions set forth in this Agreement.

### Scope of Services:

You are hiring us as your attorneys to represent you in the matter described in the Attachment to this Agreement. You are hiring the firm rather than any particular attorney, and we may assign various attorneys in the firm to work on your matter, according to our professional judgment. We will provide those legal services reasonably required to represent you. We will take reasonable steps to keep you informed of progress and to respond to your inquiries. Unless we make a different agreement in writing, this Agreement will govern all future services we may perform for you in this matter.

If any court proceeding is filed by you or by anyone else, we will represent you through trial and through post-trial motions. This Agreement does not cover representation on appeal or in execution proceedings after judgment; a separate agreement will be required for any such services. Services in any matter not described in the Attachment will also require a separate written agreement.

Our firm has not been retained to provide you with any tax advice concerning this matter. As a result, we will rely upon your tax advisor, accountant, or CPA with respect to tax issues, if applicable.

### Client's Duties:

You agree to be truthful with us, to cooperate, to keep us informed of information and developments, to abide by this Agreement, to pay our bills on time, and to keep us advised of your current mailing address, telephone number, whereabouts, and any other information reasonably necessary for us to contact you. You also agree to provide necessary information and documents to us in a timely manner, and to appear for legal proceedings when necessary.

### Legal Fees/Billing:

You agree to pay by the hour at our prevailing rates for all time spent on this matter by our legal personnel. Some services may be billed in standard amounts which are more or less than the actual time spent. Our current hourly rates for legal personnel (and rates for other items which may be billed to you) are set forth on the Attachment to this Agreement. The Attachment also provides for periodic increases.

We require that you sign and return this Agreement, and to make an initial deposit toward legal fees and costs in the amount shown in the Attachment, in order to retain our firm in this matter. The deposit is not an estimate of the legal fees we expect you will incur in this matter, but rather an ongoing deposit our firm requires in matters such as yours. We will bill monthly against the deposit, and provide you with a written statement of the charges we have billed against the deposit and the amount of the remaining balance. We may require that you increase the amount of the deposit as circumstances warrant, including, but not limited to, as we approach trial preparation and trial.

Attorney \_\_\_\_\_ Client 

The initial deposit and any future deposits will be held in our trust account, and you authorize us to use those funds to pay fees and costs as they are incurred. If we advance costs from our general account, you authorize us to draw upon the deposit for reimbursement of those costs.

We will charge you for the time we spend on telephone calls relating to this matter, including calls with you, other attorneys, witnesses and other persons regarding this case. The legal personnel assigned to this matter will confer among themselves about the case as required. When they do confer, each person will charge for the time expended. Likewise, if it is necessary that more than one of our attorneys attend a meeting, court hearing, or other proceeding, each will charge for the time spent unless otherwise indicated. Attorneys will charge for waiting time in court and for travel time, both local and out of town. Waiting time in court will not be split with other matters, and you will pay the full amount of waiting time on your case without regard to other matters upon which the attorney may be appearing.

**Costs and Other Charges:**

In general, we will incur various costs and expenses in performing legal services under this Agreement. You agree to pay for those costs and expenses in addition to the hourly fees. The costs and expenses may include, but are not necessarily limited to, process servers' fees, fees fixed by law or assessed by courts and other agencies, court and deposition reporters' fees, jury fees, notary fees, deposition costs, telephone charges, travel expenses including parking, mileage, transportation, meals, and hotel costs, investigation expenses, consultants' fees, expert witness, professional, mediator, arbitrator, and or special master fees, computerized legal research charges, photocopying and other reproduction costs, extraordinary clerical time, clerical staff overtime, and similar or related items. Except for any items noted in the Attachment, all costs and expenses will be charged at our cost.

If expert witnesses or consultants are required for your matter, we may employ them directly, or we may require you to employ them.

We may advance these costs, or we may require you to advance them. If we advance costs, you authorize us to draw upon the deposit for reimbursement of those costs.

**Billing Statements:**

We will send you periodic statements for fees and costs incurred. You may request a statement at intervals of no less than 30 days. If you do make that request, we will provide one within ten days.

You agree to pay interest on any unpaid balance at the rate of ten percent (10%) per year.

**Discharge and Withdrawal:**

You may discharge us at any time, and we may withdraw with your consent or for good cause. Good cause includes your breach of this Agreement, including failure to pay your bill with our firm, failure to maintain any required deposits, refusal to cooperate with us or to follow our advice on a material matter, or any fact or circumstances that would render our continuing representation unlawful or unethical.

When our services conclude, all unpaid charges will immediately become due and payable.

**File Retention and Destruction:**

We may store your files for some period of time after our services conclude. However, unless you specifically request that your file be released to you, you agree that we may destroy your file and all of its contents after our services have concluded.

**Disclaimer of Guarantee:**

Nothing in this Agreement and nothing in our statements to you will be construed as a promise or guarantee about the outcome of this case. We make no such promises or guarantees. Our comments about the outcome of this case are expressions of opinion only.

We make no warranties or representations concerning the total fees or expenses that you will incur in this matter. We cannot accurately predict how much time we will have to spend on this matter. That will depend on factors we cannot control, such as the complexity of issues, the number of events we are required to attend, and the extent to which other parties and their attorneys cooperate with each other or with us.

We have not agreed to any maximum fee and have not made any other promise about the total amount of legal fees and expenses to be incurred by you under this Agreement.

**Arbitration of Disputes/Waiver of Jury Trial:**

Any disputes regarding the fees to be paid to the Law Offices of Frederick W. Smith, Jr. under this Agreement shall be submitted to arbitration pursuant to Section 6200 of the California Business & Professions Code. Such arbitration may be binding at your option.

Any and all disputes concerning the interpretation of the enforcement of rights and duties under this Agreement, and any dispute concerning legal malpractice (that is, whether any legal services rendered under this contract were unnecessary or unauthorized, or were improperly, negligently or incompetently rendered), shall be submitted to final and binding arbitration pursuant to the California Arbitration Act (CCP §§ 1280-1294.2).

Arbitration shall be conducted in Modesto, California, by a neutral arbitrator selected in accordance with the statute and/or rules governing the arbitration. The award of the arbitrator shall be enforceable according to the applicable provisions of the California Code of Civil Procedure.

If proper notice of any hearing has been given, the arbitrator will have full power to proceed to take evidence or to perform any other acts necessary to arbitrate the matter in the absence of any party who fails to appear.

**By signing this agreement, the parties knowingly and voluntarily waive their right to a jury or court trial.**

Notwithstanding the foregoing, the arbitrator may construe or interpret, but shall not ignore the terms of this Agreement and shall be bound by California substantive law. The arbitration decision shall include written findings of fact and conclusions of law. The arbitrator may not commit errors of law or legal reasoning, and the parties agree that the arbitrator's decision is subject to review by the Superior Court and/or the appellate courts to the greatest extent allowed by law.

**Effective Date:**

This Agreement will take effect when you have signed it, but its effective date will be retroactive to the date we first performed services, including services under any previous agreement with you. Even if this Agreement does not take effect, you will be obligated to pay us the reasonable value of any services we may have performed for you.

**Sole Agreement:**

This Agreement is the sole and only agreement between us concerning attorneys fees. All other agreements or representations are of no further force or effect. Any modifications to this Agreement must be in writing, and signed by all parties. THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE THE LAW OFFICES OF FREDERICK W. SMITH, JR. FIRST PROVIDED SERVICES. IF MORE THAN ONE PERSON OR ENTITY SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. ALL INDIVIDUALS SIGNING ON BEHALF OF LEGAL ENTITIES WARRANT THAT THEY HAVE THE AUTHORITY TO BIND THE ENTITY FOR WHICH THEY SIGN.

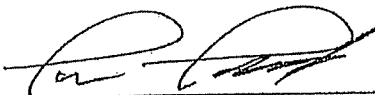
ATTORNEY

Dated: 12/9/09

  
\_\_\_\_\_  
ANDREA SESSIONS

CLIENT  
BMC WEST CORPORATION

Dated: 12/9/09

  
\_\_\_\_\_  
By: ROBERT POLLARD  
Its: Administrative Manager

Attachment

A. **Client(s)**

BMC WEST CORPORATION

B. **Description of Services**

General Representation / Collection Matters

C. **Deposit Amount**

NONE

D. **Hourly Rates for Legal Personnel**

Frederick W. Smith, Jr. \$290.00

Andrea Sessions \$200.00

E. **Timekeeping method**

We charge for our time in minimum units of 0.1 hours.

F. **Costs and Expenses**

Facsimile transmittals -\$0.50 for the first page, and \$0.10 for each page thereafter

Copies - \$.15 per page for black & white  
\$1.00 per page for color

Mileage - We bill at the IRS allowed rate. This rate will change as the IRS allowed rate changes.

Extraordinary clerical time -

Simple clerical & data entry \$15.00 per hour

Bookkeeping personnel/spreadsheet preparation \$30.00 per hour

Accounting personnel analysis \$60.00 per hour

Extraordinary clerical time includes, for example, extensive document sorting, organization, analysis, and/or data entry.

Clerical staff overtime will be charged at 1.5 times the base hourly rate or at the rates required by applicable law, whichever is greater.

File retention charge - \$50.00. As noted in the fee agreement, we are required to store your file for a period of time after your matter concludes. This one-time fee defrays a portion of those storage costs.

**G. Subject to Change**

The rates and deposit amount on this schedule are subject to change on 30 days written notice. If you decline to pay any increased rates or make any additional deposits, we will have the right to withdraw as your lawyers.



**EXHIBIT B**

1 UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

2 IN RE: Chapter 11  
3  
4 BUILDING MATERIALS HOLDING Case No. 09-12074 (KJC)  
CORPORATION, et al.,<sup>1</sup>  
5 Jointly Administered  
6 Debtors.  
\_\_\_\_\_ /

7  
8 **VERIFIED STATEMENT OF CONNECTIONS**

9 I, Andrea Sessions, declare under penalty of perjury:

10 1. I am an associate attorney of Curtis & Arata, a Professional Law Corporation, located at 1455  
11 East G Street, Suite B, Oakdale, CA 95361 (the "Firm").

12 2. Building Materials Holding Corporation and its affiliates, as debtors and debtors in  
13 possession (collectively, the "Debtors") have requested that the Firm provide collection attorney services  
14 to the Debtors, and the Firm has consented to provide such services.

15 3. If the Firm is a law firm, I state the Firm did represent the Debtors prior to their bankruptcy  
16 filings.  
17

18 4. The Firm may have performed services in the past, may currently perform services and may  
19 perform services in the future, in matters unrelated to these chapter 11 cases, for persons that are parties in  
20 interest in these chapter 11 cases. The Firm does not perform services for any such person in connection with  
21 these chapter 11 cases, or have any relationship with any such person, their attorneys or accountants that  
22 would be adverse to the Debtors or their estates. Furthermore, if the Firm is either (i) not a law firm or (ii)  
23 a law firm that did not represent the Debtors prior to their bankruptcy filings, the Firm is a "disinterested  
24 person" under 11 U.S.C. § 101(14), such that the Firm:  
25  
26 \_\_\_\_\_

27  
28 <sup>1</sup> The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

- 1 (a) is not a creditor, an equity security holder, or an insider of any of the Debtors;  
2 (b) is not and was not, within 2 years before the date of the filing of the petition, a  
3 director, officer, or employee of any of the Debtors; and  
4 (c) does not have an interest materially adverse to the interest of the estate or of any class  
of creditors or equity security holders, by reason of any direct or indirect relationship  
to, connection with, or interest in, the Debtors, or for any other reason.

5 5. As part of its customary practice, the Firm is retained in cases, proceedings, and transactions  
6 involving many different parties, some of whom may represent or be employed by the Debtors, claimants,  
7 and parties-in-interest in the Debtors' chapter 11 cases.

8 6. Neither I nor any principal, director or officer of, or professional employed by, the Firm has  
9 agreed to share or will share any portion of the compensation to be received from the Debtors with any other  
10 person other than the principal and regular employees of the Firm.

11 7. In the ordinary course of its business, the Firm maintains a database for purposes of  
12 performing "conflicts checks." The Firm's database contains information regarding the Firm's present and  
13 past representations. Pursuant to Federal Rule of Bankruptcy Procedure 2014(a), I obtained a list of the  
14 entities identified in Rule 2014(a) from counsel to the Debtors for purposes of searching the aforementioned  
15 database and determining the connection(s) which the Firm has with such entities. The Firm's search of the  
16 database identified the following connections:  
17  
18

- 19 8. City of Modesto, BMC West Corporation, Wells Fargo Bank, The Hartford, DR Horton,  
20 Louisiana Pacific Corp., PG & E, Lexington Insurance Company UKB, D.R. Horton, Inc.,  
21 Zurich American Ins. Co., Chubb Group of Insurance, Louisiana Pacific Corp.

22 9. Neither I nor any principal, director or officer of or professional employed by, the Firm,  
23 insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors or their estates  
24 with respect to the matter(s) upon which this Firm is to be employed. Furthermore, if the Firm is either (i)  
25 not a law firm or (ii) a law firm that did not represent the Debtors prior to their bankruptcy filings, I state  
26 that neither I nor any principal, director or officer of or professional employed by, the Firm, insofar as I have  
27 been able to ascertain, holds or represents any interest adverse to the Debtors.  
28



**CURTIS & ARATA**  
A PROFESSIONAL LAW CORPORATION  
ATTORNEYS & COUNSELORS AT LAW

RALPH S. CURTIS  
GEORGE S. ARATA  
D. LEE HEDGEPEETH  
MICHAEL B. IJAMS  
HUGH E. BRERETON\*  
JOHN D. FREELAND  
KATHERINE R. BOYD †  
RICHARD J. SORDELLO JR.  
ANDREW S. MENDLIN  
PAUL E. ECHOLS

GARY S. DAVIS  
LOUIS FRIEDMAN\*\*  
HASHEM W. NARAGHI II  
TERRI L. CIPPONERI  
BRADLEY J. SWINGLE  
FREDERICK W. SMITH, JR.  
JUDITH K. RUUD ‡  
JOHN F. WICKS  
JAKRUN S. SODHI  
CRAIG W. HUNTER  
JILL P. SAZAMA †

MODESTO OFFICE

1300 K STREET

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SAPPHIRA W. PIXLER

BRIAN S. HADDIX  
MICHELLE B. PEREZ ·  
MARIA C. JAIME  
ERIC T. NIELSEN  
EDALINA M. MENDONCA  
PAUL R. SCHEELE  
ANDREA SESSIONS

\*Certified Specialist in Family Law -  
Calif. Board of Legal Specialization  
† Also admitted in Tennessee

\*\*Also admitted in New York  
‡ Also admitted in Idaho and Ohio  
† Also admitted in Illinois  
‡ Also admitted in Arizona

OF COUNSEL  
ROSS W. LEE

SENIOR COUNSEL  
RALPH E. GAARDE

A.A. CARDOZO  
(1908-1985)

February 21, 2007

Rick Shelley  
BMC West Corporation  
4237 Murphy Road  
Modesto, CA 95358

Re: Collection Matter Regarding Maurice Barela

**ATTORNEY-CLIENT FEE AGREEMENT**

Dear Mr. Shelley:

This letter constitutes the written fee contract (hereinafter the "Agreement") that California law requires lawyers to have with their clients under certain circumstances.

Curtis & Arata, A Professional Law Corporation (hereinafter "we" or "Curtis & Arata"), will provide legal services to BMC West Corporation (hereinafter "you") according to the terms and subject to the conditions set forth in this Agreement.

**Scope of Services:**

You are hiring us as your attorneys to represent you in the matter described on the attached Rate Schedule. We will provide those legal services reasonably required to represent you. We will take reasonable steps to keep you informed of progress and to respond to your inquiries. Unless we make a different agreement in writing, this Agreement will govern all future services we may perform for you in this matter.

Our firm has not been retained to provide you with any tax advice concerning this matter. As a result, we will rely upon your accountant or CPA with respect to tax issues, if applicable.

**Exhibit**     A    

Oakdale Office  
(209) 847-3200  
Fax: 847-7083

Patterson Office  
(209) 895-4876  
Fax: 895-4878

Escalon Office  
(209) 838-3676  
Fax: 838-3689

Groveland Office  
(209) 962-4084  
Fax: 962-4107

Chowchilla Office  
(559) 665-7700  
Fax: 665-7507

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**Client's Duties:**

You agree to be truthful with us, to cooperate, to keep us informed of developments, to abide by this Agreement, to pay our bills on time, and to keep us advised of your current mailing address and telephone number.

**Legal Fees/Billing:**

You agree to pay by the hour at our prevailing rates for time spent on this matter by our legal personnel. Our current hourly rates for the legal personnel whom we expect to work on this matter (and other billing rates) are set forth on the attached Rate Schedule. The Rate Schedule also provides for periodic increases:

We will charge you for the time we spend on telephone calls relating to this matter, including calls with you, other attorneys, witnesses and other persons regarding this case. The legal personnel assigned to this matter will confer among themselves about the case as required. When they do confer, each person will charge for the time expended. Likewise, if it is necessary that more than one of our attorneys attend a meeting, court hearing, or other proceeding, each will charge for the time spent unless otherwise indicated.

**Costs and Other Charges:**

In general, we will incur various costs and expenses in performing legal services under this Agreement. You agree to pay for those costs and expenses in addition to the hourly fees. The costs and expenses may include process servers' fees, fees fixed by law or assessed by courts and other agencies, court reporters' fees, travel expenses, computerized legal research charges, extraordinary photocopying and other reproduction costs, clerical staff overtime, and similar or related items. Except for the items listed on the Rate Schedule, all costs and expenses will be charged at our cost.

You also agree to pay transportation, meals, lodging and all other costs of any necessary out-of-town travel by our personnel. You will also be charged the hourly rates for the time legal personnel spend traveling.

**Billing Statements:**

We will send you periodic statements for fees and costs incurred. Each statement will be due within 15 days of its date. You may request a statement at intervals of no less than 30 days. If you do make that request, we will provide one within ten days.

If any statement is not paid in full within 30 days of its date, you agree to pay interest on the unpaid balance at the rate of ten percent (10%) per year.

Rick Shelley  
Re: Collection Matter Regarding Maurice Barela  
February 21, 2007  
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**Discharge and Withdrawal:**

You may discharge us at any time. We may withdraw with your consent or for good cause. Good cause includes your breach of this Agreement, including failure to pay your bill with our firm, refusal to cooperate with us or to follow our advice on a material matter, or any fact or circumstances that would render our continuing representation unlawful or unethical.

When our services conclude, all unpaid charges will immediately become due and payable. After our services conclude we will deliver to you any funds or property of its in our possession.

**Disclaimer of Guarantee:**

Nothing in this Agreement and nothing in our statements to you will be construed as a promise or guarantee about the outcome of this case. We make no such promises or guarantees. Our comments about the outcome of this case are expressions of opinion only.

We make no warranties or representations concerning the total fees or expenses that you will incur in this matter. We cannot accurately predict how much time we will have to spend on this matter. That will depend on factors we cannot control, such as the complexity of issues and the extent to which other parties and their attorneys cooperate with each other or with us.

We have not agreed to any maximum fee and have not made any other promise about the total amount of legal fees and expenses to be incurred by you under this Agreement.

**Malpractice Insurance:**

We presently maintain errors and omissions insurance coverage that would apply to this case.

**Arbitration of Disputes/Waiver of Jury Trial:**

Any and all disputes concerning the interpretation of the enforcement of rights and duties under this Agreement, and any dispute to legal malpractice, that is as to whether any legal services rendered under this contract were unnecessary or unauthorized, or were improperly, negligently or incompetently rendered, shall be submitted to final and binding arbitration pursuant to the California Arbitration Act (CCP §§ 1280-1294.2).

Rick Shelley  
Re: Collection Matter Regarding Maurice Barela  
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Page 4

At the request of any party, the arbitrators, attorneys, parties to the arbitration, witnesses, experts, court reporters, or other persons present at the arbitration shall agree in writing to maintain the strict confidentiality of the arbitration proceedings.

Arbitration shall be conducted in Modesto, California, by a neutral arbitrator selected in accordance with the statute and/or rules governing the arbitration. The award of the arbitrator shall be enforceable according to the applicable provisions of the California Code of Civil Procedure. The arbitrator may award damages, interest, attorneys' fees and litigation costs, and/or permanent injunctive relief, but in no event shall the arbitrator have the authority to award punitive or exemplary damages.

The prevailing party, as determined by the arbitrator, shall be entitled to recover all of its reasonable litigation fees and costs.

If proper notice of any hearing has been given, the arbitrator will have full power to proceed to take evidence or to perform any other acts necessary to arbitrate the matter in the absence of any party who fails to appear.

**By signing this agreement, the parties knowingly and voluntarily waive their right to a jury or court trial.**

Notwithstanding the foregoing, the arbitrator may construe or interpret, but shall not ignore the terms of this Agreement and shall be bound by California substantive law. The arbitration decision shall include written findings of fact and conclusions of law. The arbitrator may not commit errors of law or legal reasoning, and the arbitrator's decision may be vacated or corrected pursuant to California Code of Civil Procedure section 1286.2 or 1286.6 for any such error.

**Effective Date:**

This Agreement will take effect when you have signed it, but its effective date will be retroactive to the date we first performed services, including services under our previous agreement with you. Even if this Agreement does not take effect, you will be obligated to pay us the reasonable value of any services we may have performed for you.



Rick Shelley  
Re: Collection Matter Regarding Maurice Barela  
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Page 5

Please sign and date the page where indicated below, and return it to our office in the enclosed prepaid envelope. However, if you have any questions regarding this Agreement, please communicate with me to address these questions prior to signing. We look forward to working with you on this matter.

Yours sincerely,

CURTIS & ARATA,  
A Professional Law Corporation



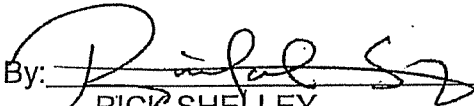
BRIAN S. HADDIX

BSH:pac  
Enclosures

I have read and understand the foregoing terms and those set forth on the attached Rate Schedule and agree to them, as of the date Curtis & Arata, A Professional Law Corporation, first provided services.

DATED: 2-26, 2007

BMC WEST CORPORATION

By:   
RICK SHELLEY

## RATE SCHEDULE

**A. Identification**

Client: BMC West Corporation

Matter: Collection matter re Maurice Barela

**B. Hourly Rates for Legal Personnel**

Shareholder attorneys	\$225.00- \$290.00
Ralph E. Gaarde	\$265.00
Associate attorneys	\$160.00 - 225.00
Brian S. Haddix	\$160.00
Paralegals	\$90.00

**C. Standard Charges**

We charge for our time in minimum units of 0.1 hours.

**D. Costs and Expenses**

Facsimile transmittals -\$0.15 each for the first pages, and \$0.10 for each page thereafter.

Mileage - \$0.485 per mile.

Clerical staff overtime will be charged at 1.5 times the base hourly rate or at the rates required by applicable law, whichever is greater.

**E. Subject to Change**

The rates on this schedule are subject to change on 30 days written notice. If you decline to pay any increased rates, we will have the right to withdraw as your lawyers.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

BUILDING MATERIALS HOLDING  
CORPORATION, *et al.*,<sup>1</sup>  
  
Debtors.

Chapter 11


Case No. 09-12074 (KJC)

Jointly Administered

**AFFIDAVIT OF SERVICE**

STATE OF DELAWARE    )  
                                  ) SS  
NEW CASTLE COUNTY    )

Casey S. Cathcart, an employee of the law firm of Young Conaway Stargatt & Taylor, LLP, co-counsel to the above-captioned debtors, being duly sworn according to law, deposes and says that on December 9, 2009, she caused a copy of the **Sixteenth Notice of Filing of Declarations of Disinterestedness of Certain Ordinary Course Professionals** to be served as indicated upon the parties identified on the attached service list.

  
\_\_\_\_\_  
Casey S. Cathcart

SWORN TO AND SUBSCRIBED before me this 9th day of December, 2009.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires:



<sup>1</sup> The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

**2002 SERVICE LIST**  
**BUILDING MATERIALS HOLDING CORPORATION**  
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Attn: Bankruptcy Administration  
1738 Bass Road  
P.O. Box 13708  
Macon, GA 31208-3708  
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Internal Revenue Service  
Attn: Insolvency Section  
11601 Roosevelt Blvd., Mail Drop N781  
P.O. Box 21126  
Philadelphia, PA 19114  
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**2002 SERVICE LIST**  
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**2002 SERVICE LIST**  
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**12/9/2009**

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Division of Corporations  
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**2002 SERVICE LIST**  
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